

**§ 148.102 Scope, applicability, and effective dates.**

(a) *Scope.* (1) Individual health insurance coverage includes all health insurance coverage (as defined in § 144.103) that is neither health insurance coverage sold in connection with an employment-related group health plan, nor short-term, limited-duration coverage as defined in § 144.103 of this subchapter. In some cases, coverage that may be considered group coverage under State law (such as coverage sold through certain associations) is considered individual coverage.

(2) *Applicability.* The requirements of this part that pertain to guaranteed availability of individual health insurance coverage for certain eligible individuals apply to all issuers of individual health insurance coverage in a State, unless the State implements an acceptable alternative mechanism as described in § 148.128. The requirements that pertain to guaranteed renewability for all individuals apply to all issuers of individual health insurance coverage in the State, regardless of whether a State implements an alternative mechanism.

(b) *Effective dates*—(1) *General effective date.* Except as provided in paragraph (b)(2) of this section and § 148.128 (State flexibility in individual market reforms—alternative mechanisms), the requirements of this part apply to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

(2) *Effective date for certification requirements*—(i) *General rule.* Subject to the transitional rule in § (b)(4)(iii), the certification requirements of § of this subchapter apply to events occurring after June 30, 1996.

(ii) *Period covered by certificate.* A certificate is not required to reflect coverage before July 1, 1996.

(iii) *No certificate before June 1, 1997.* No certificate must be provided before June 1, 1997.

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**§ 148.103 Definitions.**

Unless otherwise provided, the following definition applies:

*Eligible individual* means an individual who meets the following conditions:

(1) The individual has at least 18 months of creditable coverage (as determined under § 146.113 of this subchapter) as of the date on which the individual seeks coverage under this part.

(2) The individual's most recent prior creditable coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any of these plans).

(3) The individual is not eligible for coverage under any of the following:

(i) A group health plan.

(ii) Part A or Part B of Title XVIII (Medicare) of the Social Security Act.

(iii) A State plan under Title XIX (Medicaid) of the Social Security Act (or any successor program).

(4) The individual does not have other health insurance coverage.

(5) The individual's most recent coverage was not terminated because of nonpayment of premiums or fraud. (For more information about nonpayment of premiums or fraud, see § 146.152(b)(1) and (b)(2) of this subchapter.)

(6) If the individual has been offered the option of continuing coverage under a COBRA continuation provision or a similar State program, the individual has both elected and exhausted the continuation coverage.

**Subpart B—Requirements Relating to Access and Renewability of Coverage****§ 148.120 Guaranteed availability of individual health insurance coverage to certain individuals with prior group coverage.**

(a) *General rule.* Except as provided for in paragraph (c) of this section, an issuer that furnishes health insurance coverage in the individual market must meet the following requirements with respect to any eligible individual who requests coverage:

(1) May not decline to offer coverage or deny enrollment under any policy